



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/710,384

07/06/2004

John K. McCormick

5113

36483

7590

07/14/2008

JOHN K. MCCORMICK
6781 GLACIER DRIVE
WEST BEND, WI 53090

EXAMINER

AMSDELL, DANA

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

07/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/710,384	Applicant(s) MCCORMICK, JOHN K.	
	Examiner DANA AMSDELL	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/06/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

This Office action is in response to Application 10/710384 filed July 6, 2004.

This Office action is given Paper Number 20080626 for reference purposes only.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 7 and 19 recite the limitation "*the* MRP, MRP II and any other MIS".

There is insufficient antecedent basis for this limitation in the claim. Furthermore, the use of the acronyms "MRP and MIS" in said claims, without recitation of the expanded terms for establishing a concise meaning for subsequent use, renders the claim indefinite. One of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

3. Claims 2-6, 8-12, and 20-24 are rejected as depending from 1, 7, and 19 respectively.

4. The term "temporarily" in claim 1, 7 and 19 is a relative term which renders the claim indefinite. The term "temporarily" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

5. Claims 2-6, 8-12, and 20-24 are rejected as depending from 1, 7, and 19 respectively.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferreri et al (US 6,681,141), here-in-after "Ferreri" and Keeler et al. (US 5,781,432), here-in-after "Keeler", and further in view of Eck et al. (US 2004/0024628), here-in-after "Eck".

8. Regarding claim 1, Ferreri discloses the steps of:
- a. selecting a primary strategic objective;
 - b. listing the possible strategic objective measures;
 - c. selecting the primary strategic objective measure and calculation (Fig. 1, elm. 110 and column 3, lines 27- 32, wherein the primary strategic object is);

- d. running the MRP, MRP II and any other MIS for a planning period as if the currently required activities and/or work were in fact already ordered and/or run per the existing activity schedule and ordering rules;
- e. determining the first expected results ran in step d as measured in terms of the said primary strategic objective measure calculation (Fig. 1, elm. 112 and column. 4, lines 4-8 and lines 14-15 wherein history data is defined to be saved current runs);

As to steps [f – j], Ferreri discloses temporarily modifying a required activity ((sales), see fig. 1, elm. 114 and column 4, lines 8-14), and re-running the said MRP, MRP II and any other MIS (simulation mode) for the said planning period as if the remaining activities and/or work were in fact already run per the said existing activity schedule (see column 4, lines 32-44 "independent demand" and the said existing ordering rules and the determination of the second expected results of the said modified data created in step [f] as measured in terms of the said primary strategic objective measure calculation (column 4, lines 8-12).

Further, Ferreri discloses taking the said first expected results found in step [e] and subtracting the said second expected results found in step [g] to determine the impact of the said *data* that was modified in step f on the said strategic objective measure (Fig. 1, elm 116 and fig . 2, "DELTA").

Ferreri also discloses some limitations of step [i]. in determining the appropriate new order and/or lot size that is consistent with the said primary strategic objective by taking the said impact found in step [h], (column 4, lines 20-33,

wherein deviations within a normal range are acceptable for ordering and those outside the range are corrected for error).

9. Ferreri does not teach temporarily modifying the activity schedule by removing one of the said activities or work; nor does he disclose the said impact found in step [h] and subtracting any fixed amount associated with the said activity or work that was removed in step [f] in the same units of measure as the said primary strategic objective measure and then dividing the result by the amount per unit or piece of the said removed job, the said amount is measured in the same unit of measure as the said primary strategic objective measure; and step [j] being re-running steps [d through i] above for each different job and/or order existing.

10. Keeler however, discloses removing a variable (activities or work), in a plant operation by constraining the control input variable to either a range or a constant. Setting the constant equal to zero effectively removes the variable when you run the model (see fig. 7, elm. 150, column 6, lines 9-11, and column 10, lines 7-35). It would have been obvious to a person of ordinary skill in the art to include temporary omission of an activity in a modification such as Keeler discloses, because it yields useful data for a 'what if' scenario; e.g. 'what-if' sales go to zero, or 'what-if' there is a necessitated deletion of work or material from a manufacture process). Keeler also discloses step [j] being the re-running of steps varying the control input (fig. 4, elm. 88 and column 7/8, lines 45-67/1-4). It would have been obvious to a person of ordinary skill in the art to run

the steps iteratively to obtain information for evaluating and comparing the business impact of independent steps, activities and materials from the process.

11. Regarding the subtraction of fixed costs and the amount per unit calculation, this limitation is typically rolled into most MIS operations. However Eck discloses this explicitly (pg. 2, ¶ 0022 – 0026 wherein the strategic objective is measured in scaleable revenue dollars or any other “business impact” measure). It would have been obvious to a person of ordinary skill in the art to add this conclusive feature to the measure of the impact of an activity so as to determine material or resource requirements.

12. Regarding claims 7, 13 and 19, Ferreri discloses the apparatus for determining an entity's order and/or lot sizes that the entity purchases and/or produces consistent with and supportive of the entity's primary strategic objective such that the operational side of the entity is supporting and consistent with the said strategic direction of the entity, wherein said apparatus includes:

- a. user interface devices and modules operatively coupled to said apparatus;
- b. a memory that stores databases and computer readable code;
- c. said databases including original databases and modified original databases;
- d. a processor operatively coupled to said memory, said processor configured to implement said computer readable code..... (fig 4, elms. 415, 419, 414, 416 and 410). Ferreri additional discloses claim 13 being the computer program embodied

on a computer-readable medium, as well as the device and system of claim 19 (fig. 4 and column 1, lines 6-12)

13. Regarding claims 2- 6, 8-12, 14-18 and 20-24, Ferreri discloses wherein the said new order and/or lot size includes adding an additional quantity to the said new order and/or lot size as a possible outcome to the performance of the steps recited in claim 1 (Fig. 1, elm. 120, and column 4, lines 8-12 and lines 16-19). Additionally, he discloses the said new order and/or lot size includes an upper limiting value that is not to be exceeded as it depends from claim 1, as well as the said new order and/or lot size is over-ridden and a substitute value put in for the said new order and/or lot size (Fig. 1, elms. 118, 120 and 122 and column 4, lines 28-33). Also, Ferreri discloses said primary strategic objective is any strategic objective (column 3, lines 58-62).

14. Ferreri however does not disclose adding an additional quantity as an exclusive limitation. Keeler does disclose this and also discloses said new order and/or lot size includes an upper limiting value that is not to be exceeded as it depends from claim 2 by including a step which allows user to constrain output parameters by application of “fuzzy constraints” (Fig. 14, elm. 342, Fig 15 and column 9, lines 39-45). It would have been obvious to a person of ordinary skill in the art to add an output constraint that only adds quantities to orders if the model exclusively represents an industry growth model, or a model that embraces a contractual obligation to increase order quantities.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Motoba et al. (US 5,231,567)
- Havener et al. (US 6,381,504)
- Katz et al. (US 2002/0174000)
- Wei (US 6,889,106)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANA AMSDELL whose telephone number is (571)270-5210. The examiner can normally be reached on 5/4/9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANA AMSDELL/
Examiner, Art Unit 3627

7/9/2008

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627